THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.Nos.19131; 19140 & 19171 of 2004

COMMON ORDER:

The petitioner in these three writ petitions is the Fertilizers & Chemicals Travancore Limited, which claim to be a manufacturer of different types of fertilizers. It is stated that the petitioner-Company is holding a valid Certificate of Registrations and Permissions as required under the provisions of the Fertilizer (Control) Order, 1985.

These three Writ Petitions are filed aggrieved by the action of the 1st respondent-Joint Collector, Anantapur, in directing interim disposal of the stocks of fertilizers belonging to the petitioner which were seized from different godowns at Anantapur, pending disposal of the proceedings under Section 6-A of the Essential Commodities Act, 1955.

As can be seen from the material on record, fertilizers belonging to the petitioner-Company, which were stored in different warehousing godowns at Anantapur were seized on 22.7.2004 by the 5th respondent-Mandal Agricultural Officer, (Fertilizer Inspector) Anantapur, alleging that the same were stored in contravention of the provisions of the Fertilizer (Control) Order, 1985. It is not in dispute that in pursuance of the said seizure, proceedings under section 6-A of the Essential Commodities Act, 1955 have been initiated for confiscation of the stocks seized and show cause notices dated 29.7.2004 were issued calling upon the petitioner to show cause as to why the seized stocks of fertilizers should not be confiscated to the Government.

The petitioner submitted its explanation immediately thereafter denying all the allegations made and also requesting for interim custody of the seized stocks.

Having considered the same, the 1st respondent held that charge No.1 has not been established. However, so far as Charge No.2 is concerned, the 1st respondent held that *prima facie* violation of Clause 21 of Fertilizer (Control) Order, 1985 has been established. Accordingly, by separate orders dated 24.09.2004, the 1st respondent though ordered release of a part of the seized stock on production of

third party security for the value of the said stocks, ordered interim disposal of the stocks kept for standardization through the District Manager, Markfed, Anantapur, after taking standardization in the presence of the local Fertilizer Inspector and Mandal Agricultural Officer, Anantapur. Aggrieved by the said orders, these three Writ Petitions are filed.

I have heard the learned counsel for the petitioner as well as the learned Government Pleader for Agriculture, appearing for the respondents.

The learned counsel for the petitioner vehemently contended that the action of the respondents in seizing the stock is arbitrary and illegal and that the allegation of violation of the provisions of the Fertilizer (Control) Order, 1985, is without any basis. These are the aspects, which require consideration in the enquiry pending under Section 6-A of the Essential Commodities Act, 1955. Since admittedly, the enquiry under Section 6-A of the Essential Commodities Act is still pending before the 1st respondent-Joint Collector, I am not inclined to express any opinion on merits.

The learned counsel for the petitioner states that as a matter of fact the petitioner has already filed its explanations long back specifically denying all the allegations and contending that the impugned seizure was not *bona* fide.

In the circumstances, I deem it appropriate to dispose of the Writ Petitions with a direction to the 1st respondent to complete the proceedings initiated against the petitioner under Section 6-A of the Essential Commodities Act, 1955, and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. Needless to mention that the petitioner shall be afforded an opportunity of hearing before passing the final orders. Till such time, the respondents are directed not to dispose of the seized stock in pursuance of the impugned orders dated 24.9.2004. No costs.

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(G. ROHINI, J.)

21st November, 2005.

Kgr

Issue CC in three days.

THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.Nos.19131; 19140 & 19171 of 2004

21st November, 2005.

W.P.No.19131 OF 2004:

Between:

The Fertilizers & Chemicals Travancore

Limited, represented by its Senior

Regional Manager – Sri P. Suryanarayana,

S/o Late Kondaiah, Nellore, Nellore District. .. Petitioner.

And

The Joint Collector, Anantapur,

Anantapur District and four others. .. Respondents.

W.P.No.19140 OF 2004:

Between:

The Fertilizers & Chemicals Travancore

Limited, represented by its Senior

Regional Manager – Sri P. Suryanarayana,

S/o Late Kondaiah, Nellore, Nellore District. .. Petitioner.

And

The Joint Collector, Anantapur,

Anantapur District and four others. .. Respondents.

W.P.No.19171 OF 2004:

Between:

The Fertilizers & Chemicals Travancore

Limited, represented by its Senior

Regional Manager – Sri P. Suryanarayana,

S/o Late Kondaiah, Nellore, Nellore District. .. Petitioner.

And

The Joint Collector, Anantapur,

Anantapur District and four others. .. Respondents.